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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

IN RE:	§	CASE NO. 04-10605-RLJ-13
	§	
Jessie Bernal, Jr.	§	CHAPTER 13
AND	§	
Shelley Diane Bernal	§	
DEBTOR(S)	§	

MOTION FOR DECLARATION OF COURT REGARDING
PAYMENT IN FULL OF MORTGAGE CLAIM

NOW COMES, Jessie Bernal, Jr., and Shelley Diane Bernal, Debtors in the above referenced case, by and through his attorney, requests a declaration from the Court that the mortgage claim of JAN FRENCH has been paid in full through the Debtors' Chapter 13 plan and the lien has been satisfied.

1. Debtors' Chapter 13 case was filed on 7//22/2004.
2. Jan French ("French"), Creditor holding the Deed of Trust on real property of Debtors, was properly listed on Schedule D of Debtors' bankruptcy petition. The property described as 1717 S. 19th St., Abilene, TX; Lot No. 6, Block No. 7, continuation of Willis Place Addition, to the city of Abilene, Taylor County, Texas is listed on Schedule A real property of the Debtors' and claimed as exempt under 11 U.S.C. 522(d)(1) on Schedule C of the bankruptcy petition. See Exhibit A-Deed of Trust.
3. Debtors' proposed to pay French's claim of \$10,000.00 plus 7% interest through their Chapter 13 plan and that plan was confirmed by the Court on 3/3/2005.
4. The Chapter 13 Trustee attempted to make numerous payments to French on the claim, however all payments were either returned to the Trustee's office or were never cashed. In June of 2005, the Trustee stopped attempting to disburse funds to French and is now holding funds in the

approximate amount of \$13,588.38 for the benefit of French. See Exhibit B-Trustee's Status of Claims.

5. Debtors' counsel has tried to reach Ms. French by telephone many times and has been unsuccessful each time. Certified correspondence sent in August 2008 was returned unclaimed. An additional copy of the correspondence sent by regular post was not returned for bad address. Exhibit C-correspondence.
6. Debtors have now completed the final payment on their Chapter 13 plan payment and are due to receive a Discharge of Debt.
7. Debtors are concerned that with the lack of participation and communication with French, that the Deed on the home will remain clouded in the Taylor County property records.
8. Debtors are requesting that this Court enter a declaration stating that the mortgage claim of French has been paid in full and that the lien created by the Deed of Trust shall be deemed released for the purpose of filing such declaration in the real property records of Taylor County.

FOR THESE REASONS, Debtor(s) requests that the Court enter its Declaration that the mortgage claim of Jan French has been paid in full, that the lien created by the Deed of Trust shall be released, and granting Movants such other and further relief to which they may be justly entitled.

Respectfully submitted,

/s/Monte J. White
Attorney for Debtors

CERTIFICATE OF SERVICE

I, Monte J. White, do hereby certify that on 8/7/2009, I served a true and correct copy of the foregoing to the following listed parties by ECF and/or certified or regular mail.

/s/Monte J. White
Attorney for Debtors

Walter O'Cheskey
Standing Chapter 13 Trustee
6308 Iola
Lubbock, TX 79424

Jessie Bernal, Jr. and Shelley Diane Bernal
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Abilene, TX 79602

William T. Neary
Office of the U.S. Trustee
1100 Commerce St. Suite 9C60
Dallas, TX 75242

Jan French VIA regular mail and CRRC 70052570000088811415
7136 Bennington Dr.
Dallas, TX 75214-1701

/s/Monte J. White
Attorney for Debtors